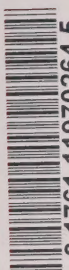


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BILL 159

AN ACT TO REVISE THE PLANNING ACT

Submission to

THE HON. C. BENNETT
MINISTER OF MUNICIPAL AFFAIRS AND HOUSING



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This Submission constitutes the Urban Development Institute's response to amendments carried out by the Standing Committee on General Government, to Bill 159 - An Act to Revise the Planning Act.

We are pleased to note that public understanding, participation and involvement have been assured by mandatory dissemination of information notice to appellants and opportunity to make representation in Official Plan formulation, Land Use Controls, Consents of Land Division, and in their appeal procedures. This is reflected in new and amended sections S17 (2), S19 (1b) and S26 (2) regarding Official Plans; S34 (12) and (26) and S44 (17) regarding Land Use Controls; and S52 (8) and (16) regarding Consents of Land Division. S52 (8) permits an applicant to appeal the condition or conditions imposed by a council in a consents of land division decision. It should be understood that if an appeal is made under S52 (8) and conditions of consent are changed that this does not constitute a new decision and therefore cannot be appealed again under sub-section (7) of Section 52.

Further, we note that Sub-section (4) of S27 -- Amendments to Local Plans and Zoning By-laws to conform with Upper-tier Plans -- clarifies the status of Official Plans in case of conflict between plans. We are also happy to see amended Sub-section (2) of S40 stipulating that a site plan control area must be shown or described in an Official Plan and similarly with the clarification brought by the addition of Sub-sections (8) and (9) to S40 with respect to highway widenings.

On the other hand, there a number of areas with with UDI wishes to express dissatisfaction and which warrant detailed comment. They will constitute the core of this Submission upon which we will now focus.

Three primary concerns centre on reduced Ministerial powers, reduced power of the Municipal Board, and delays in procedure. A fourth area concerns expanded powers to municipalities (S31 (23) to (30)). However, we will not comment here on this latter point, since the entire subject is being studied by U.D.I. in connection with the fire code and retrofit, and will be treated in a separate submission.

1. Reduced Ministerial Power

Part VII - General

S 69 (1) and (2) Development Standards in Original Bill 159.

This section, contained in the original Bill 159, referred to development standards of a municipality and the Minister's consultation prior to the prescription of such standards with municipal, provincial, federal or other officials and bodies or persons, whom he considered to have an interest in a proposed standard. The amended Bill 159 has deleted the entire S.69. This deletion has serious implications. Development standards of various municipalities will be subject to even greater diversity and public participation is denied. Servicing standards, for example, are thus open to unreasonable demands by municipalities which, in times of economic constraint, demand prudence, and would benefit from consultation with other bodies or individuals and a final provincial regulation.

2. Reduced O.M.B. Power

Part V - Land Use Controls and Related Administration
S 34 (25) Establishment of Issues

The Original Bill 159 allowed the Ontario Municipal Board to establish issues in dispute in an appeal, thereby simplifying Board hearings. The subsequent amended Bill 159 removed sub-section (25). We regret this move which limits the power of the Board and would have contributed to greater efficiency in proceeding with hearings.

3. Delays in Procedure

Part III - Official Plans
S17 (8) Notice

Part V - Land Use Control and Related Administration
S34 (17) Notice of Passing of By-Law
(18) Appeal to O.M.B.

Expeditious processing of development applications and minimizing the possibility of delay in the administrative structure and process is one of the primary concerns of the development industry. It is therefore distressing to find that S 17(8) has been amended from the original Bill 159 to add a further five days to the process of Official Plan adoption and that S 34 (17) slows the procedure of passage of land use control by-laws by an additional five days. Subsection (18) of S 34 establishes that appeals to the O.M.B. are to be made within 35 days rather than the previous 30 days from the passing of a by-law by a municipality.

CONCLUSIONS

U.D.I. wishes to express disappointment with the fact that none of its recommendations to the Standing Committee on General Government presented in its Submission dated February 1982 and at the hearings of the Committee, were reflected in the amended Bill 159.

Delegation of Ministerial powers down to municipal councils and planning boards (S 4(1),(2)) affords them the right to refuse a referral to the O.M.B. U.D.I. agreed with delegation of powers in principle, but does not agree that referral to the O.M.B. should be refused by any person or body other than the Minister, after all the steps in a democratic process of hearing procedures have been concluded. Delegation of power to committees of council or appointed officers (S. 5(1)) by Council further delegates power. The section does not mention the right of appeal back to full council from the decision of a committee or appointed official. U.D.I. strongly urged that the right of an individual to appeal to full council be made clear in this Section.

U.D.I. had objected to the time period of one year for amendments to lower tier official plans to conform to upper tier plans (S. 27 (2)).

In S 34(16) and (19), appeal to the O.M.B. re zoning by-laws enacted by a municipality allowed 30 days in which to file notice with the clerk of a municipality. U.D.I. had urged that the municipal clerk be required to forward objections to the Secretary of the O.M.B. within 7 days of termination of the 30 day period.

We had recommended that, with reference to S 37 (1) and (2), an interim control by-law with a specified maximum time period of one year, be given an extension of not more than 6 months in order to complete unfinished studies or reviews with dispatch.

We had asked for consistency when requesting that divided responsibility between the Land Compensation Board and the O.M.B. with respect to S51 (9) (Now S 50 (9) in the Amended Bill 159) Subdivision of Land, and S42 (9) (Now 41 (9) of the Amended Bill) Development or Redevelopment of Land, be vested in one or the other body.

Finally, S 42 (8) allows account to be taken of previous conveyances or monies in lieu thereof with respect to development and redevelopment but does not apply the same rule to resubdivision of land (Section 51, now Section 50 of the amended Bill).

No response to any of these recommendations are reflected in Bill 159 as amended by the Standing Committee on General Government. In fact, previously expressed concerns respecting delays have been further aggravated by increased time periods allowed in the adoption process of Official Plans and Land Use Control appeals.

Ministerial power has been reduced, since formulation of development standards for any municipality would benefit from the Minister's consultation with other government officials and individuals prior to passage and final provincial regulation. The way is open for great divergence in standards which will make the developer's task an even more arduous one. O.M.B. powers have been reduced, since establishment of issues would have allowed that body to exercise discretion in the interest of effecting greater efficiency.

Respectfully submitted:

URBAN DEVELOPMENT INSTITUTE (ONTARIO)

December 1982

